

ACTION EUR-00

RELEASED IN FULL

INFO	LOG-00	AID-00	CIAE-00	DODE-00	SRPP-00	EB-00	UTED-00
	TEDE-00	INR-00	IO-00	L-00	NSAE-00	NSCE-00	OIC-02
	PRS-00	P-00	SP-00	SS-00	STR-00	TEST-00	TRSE-00
	USIE-00	PRM-00	DRL-01	G-00	SAS-00	/003W	

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FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 5648

INFO AMEMBASSY PARIS PRIORITY

USMISSION USUN NEW YORK PRIORITY

DEPT JUSTICE WASHDC PRIORITY

UNCLAS SECTION 01 OF 02 GENEVA 002261

L/UNA - BRANCATO; IO; DRL

E.O. 12958: N/A

TAGS: FR, UNGA, UNHR

SUBJECT: HUMAN RIGHTS: "ENFORCED DISAPPEARANCES"

NEGOTIATIONS - INFORMAL CONSULTATIONS ANNOUNCED FOR
SEPTEMBER 1-5, 2003

REF: A. A) GENEVA 00272 AND PREVIOUS

B. B) CHR RES. 2003/38

1. ON JULY 9, MISSION RECEIVED BY FAX FROM THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) A NOTICE CONCERNING INFORMAL CONSULTATIONS TO BE HELD SEPTEMBER 1-5 WITH RESPECT TO THE PENDING NEGOTIATIONS TO CONCLUDE A LEGALLY BINDING INSTRUMENT ON ENFORCED DISAPPEARANCES . (REFTEL REPORTS THE OUTCOME OF THE UNHRC WORKING GROUP SESSION'S NEGOTIATIONS (JANUARY 6-17, 2003) ON SUCH AN INSTRUMENT) .

2. THE TEXT OF THE OHCHR'S NOTICE FOLLOWS:

BEGIN TEXT.

THE SECRETARIAT OF THE UNITED NATIONS (HIGH COMMISSIONER FOR HUMAN RIGHTS) HAS THE HONOR TO REFER TO COMMISSION ON HUMAN RIGHTS RESOLUTION 2003/38, ENTITLED "QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES". IN PARAGRAPH 14 OF THAT RESOLUTION, THE COMMISSION REQUESTS THE CHAIRPERSON-RAPPORTEUR OF THE INTERSESSIONAL OPEN-ENDED WORKING GROUP WITH THE MANDATE TO ELABORATE A DRAFT LEGALLY BINDING NORMATIVE INSTRUMENT FOR THE PROTECTION OF ALL

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PERSONS FROM ENFORCED DISAPPEARANCE, TO UNDERTAKE INFORMAL CONSULTATIONS WITH ALL INTERESTED PARTIES IN ORDER TO PREPARE THE NEXT SESSION OF THE WORKING GROUP.

FOLLOWING THAT REQUEST, THE CHAIRPERSON-RAPPORTEUR OF THE WORKING GROUP, AMBASSADOR BERNARD KESSEDJIAN, WILL HOLD INFORMAL CONSULTATIONS AT THE UNITED NATIONS OFFICE IN GENEVA, FROM 1 TO 5 SEPTEMBER 2003. AMBASSADOR KESSEDJIAN WOULD LIKE TO INVITE REPRESENTATIVES OF ALL MEMBER STATES TO PARTICIPATE IN THIS CONSULTATIVE MEETING, AND WOULD BE GRATEFUL IF THE PERMANENT MISSIONS COULD INFORM THE

SECRETARIAT OF THE NAME OF THE REPRESENTATIVE(S) OF THEIR GOVERNMENT WHO WOULD ATTEND THE MEETING.

END TEXT.

3. IN TANDEM WITH THE SECRETARIAT'S NOTICE, THE FRENCH MISSION IN GENEVA HAS TRANSMITTED TO THE MISSION (AND TO OTHER MISSIONS THAT ATTENDED THE JANUARY SESSION) A BACKGROUND PAPER (IN ENGLISH AND FRENCH) CONTAINING A DETAILED OUTLINE OF PROPOSED CHAPTER HEADINGS FOR THE DRAFT LEGALLY BINDING INSTRUMENT. THOSE HEADINGS REFLECT THE STATE OF THE WORKING GROUP'S DISCUSSIONS TO DATE. (COPIES OF THE BACKGROUND PAPER ARE BEING FAXED TO L/HRR, GILDA BRANCATO).

4. SPECIFICALLY, THE LIST OF CHAPTER HEADINGS INCLUDES: DEFINITION; OFFENSES AND PENALTIES; PROTECTION AGAINST IMPUNITY; DOMESTIC PROSECUTION; INTERNATIONAL COOPERATION; PREVENTION; VICTIMS; CHILDREN OF DISAPPEARED PERSONS; FOLLOW-UP MECHANISM; AND FINAL CLAUSES. EACH CHAPTER HEADING IS FURTHER ELABORATED BY BULLETS REFLECTING THE KEY SUBSIDIARY ELEMENTS/ISSUES RELATING TO THAT CHAPTER HEADING.

5. SUBSEQUENT TO RECEIPT OF THE BACKGROUND PAPERS, THE FRENCH MISSION PHONED THE MISSION'S LEGAL ADVISER TO SAY THAT FRENCH AMBASSADOR KESSEDJIAN WOULD LIKE TO MEET INFORMALLY WITH THE APPROPRIATE U.S. MISSION REPRESENTATIVE(S) SOMETIME BEFORE END OF JULY TO EXPLAIN THE FRENCH MISSION'S BACKGROUND PAPER. (WE UNDERSTAND THAT AMB. KESSEDJIAN ALSO PLANS TO MEET IN A SIMILAR FASHION WITH A FEW OTHER SELECTED DELEGATIONS). U.S. MISSION LEGAL ADVISER WAS NON-COMMITAL, SAYING ONLY THAT A U.S. MISSION REPRESENTATIVE WOULD LIKELY BE AVAILABLE FOR SUCH A MEETING, BUT THAT THIS WOULD NEED TO BE PASSED BACK TO WASHINGTON FOR CONSULTATION AND FOR ANY GUIDANCE DEEMED NECESSARY.

6. MISSION IS AWARE THAT THE HOLDING OF AN INFORMAL MEETING IN SEPTEMBER IS NOT REGARDED AS PARTICULARLY DESIRABLE, EVEN THOUGH IT WAS FORESEEN IN THE ADOPTION OF CHR RESOLUTION

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2003/38 (REF B). OVER THE REMAINING WEEKS OF THE SUMMER, THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF JUSTICE, WILL NEED TO FORMULATE A POSITION ON APPROPRIATE U.S. PARTICIPATION AT THE SEPTEMBER MEETING. IN THE MEANTIME, THE MISSION BELIEVES THAT MEETING WITH AMBASSADOR KESSEDJIAN IN JULY AS HE HAS REQUESTED, AND HEARING HIM OUT ON WHAT HE EXPECTS TO OCCUR AT THE SEPTEMBER MEETING (AND ON RELATED ISSUES, INCLUDING IMPLICATIONS OF THAT MEETING ON THE MORE FORMAL MEETING THAT WILL OCCUR JANUARY 12-23, 2004), COULD HELP INFORM OUR THINKING ON HOW BEST TO MANAGE U.S. PARTICIPATION IN THE UPCOMING ENFORCED DISAPPEARANCES NEGOTIATIONS. FOR THOSE REASONS, MISSION IS INCLINED TO MEET WITH THE FRENCH THIS MONTH AND TO REMAIN ENGAGED BUT NON-COMMITAL REGARDING THE SEPTEMBER MEETING, PENDING

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